

Guildhall Gainsborough
Lincolnshire DN21 2NA
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AGENDA

This meeting will be recorded, streamed live (at the below link) and the video archive published on our website

Regulatory Committee
Thursday, 11th March, 2021 at 6.30 pm
Virtual - MS Teams

<https://west-lindsey.public-i.tv/core/portal/home>

Members:

- Councillor Mrs Jessie Milne (Chairman)
- Councillor Mrs Angela Lawrence (Vice-Chairman)
- Councillor Liz Clews
- Councillor David Cotton
- Councillor Timothy Davies
- Councillor Mrs Caralyne Grimble
- Councillor Paul Howitt-Cowan
- Councillor Mrs Cordelia McCartney
- Councillor Mrs Judy Rainsforth
- Councillor Jim Snee
- Councillor Jeff Summers

1. **Register of Attendance**
2. **Public Participation**
Up to 15 minutes are allowed for public participation. Participants are restricted to 3 minutes each.
3. **Declarations of Interest**
Members may make declarations of Interest at this point or may make them at any point in the meeting
4. **Minutes of Previous meetings** (PAGES 3 - 14)
To approve the minutes of the Regulatory Committee meeting held on 10 September.

The notes from the Regulatory Sub-Committee hearings held on 6

Agendas, Reports and Minutes will be provided upon request in the following formats:

Large Clear Print: Braille: Audio: Native Language

October, 17 November and 25 February are attached for noting.

5. **Matters Arising** (PAGE 15)
6. **Public Reports for approval**
 - i) Public Space Protection Orders - General Update (PAGES 16 - 20)
 - ii) Hemswell Cliff Public Space Protection Order (PAGES 21 - 34)
7. **Workplan** (PAGE 35)

Ian Knowles
Head of Paid Service
The Guildhall
Gainsborough

03/03/2021

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Regulatory Committee held Virtually via - MS Teams on 10 September 2020 commencing at 6.41 pm.

Present: Councillor Mrs Jessie Milne (Chairman)

Councillor Liz Clews
Councillor Timothy Davies
Councillor Mrs Caralyne Grimble
Councillor Mrs Cordelia McCartney
Councillor Mrs Judy Rainsforth
Councillor Jim Snee

In Attendance:

Alan Robinson	Director of Corporate Services and Monitoring Officer
Andy Gray	Housing and Enforcement Manager
Katie Storr	Senior Democratic & Civic Officer
James Welbourn	Democratic and Civic Officer

Apologies:

Councillor Mrs Angela Lawrence
Councillor David Cotton
Councillor Paul Howitt-Cowan
Councillor Jeff Summers

Membership: No substitutes were appointed.

10 CHAIRMAN'S WELCOME AND REGISTER OF ATTENDANCE

The Chairman welcomed all Members and Officers to the second meeting of the Regulatory Committee to be held virtually. She acknowledged the meeting was being broadcast live and welcomed any members of the public who may have been watching.

The Chairman undertook the register of attendance for Members and each Councillor confirmed their attendance individually.

The Democratic Services Officer completed the register of attendance for Officers and, as with Members, each Officer confirmed their attendance individually.

11 PUBLIC PARTICIPATION

The Democratic and Civic Officer confirmed there was no public participation for the meeting.

12 DECLARATIONS OF INTEREST

There were no declarations of interest at this point in the meeting.

13 MINUTES OF PREVIOUS MEETINGS

RESOLVED that the minutes of the meeting of the Regulatory Committee held on Thursday, 4 June 2020 be confirmed and signed as an accurate record.

14 MATTERS ARISING AND DISCHARGE OF TRINITY ARTS CENTRE PSPO

The Chairman invited the Housing and Enforcement Manager to comment on the matters arising. It was noted that the majority of the matters arising were marked as completed. The Housing Enforcement Manager highlighted to the committee that following their previous decision on 4 June, the Trinity Arts Centre PSPO had now been formally discharged. The arising delegated decision notice had been shared with Members. Throughout the course of the consultation, no evidence had been raised to suggest the PSPO should not be discharged. Statutory consultees had raised no additional concerns and whilst officers had met with the Ward Members, they had expressed views similar to those raised in the Committee meeting on 4 June.

Since the formal discharge on 6 July, there had been no incidents and the situation would continue to be monitored. Members noted that a general PSPO monitoring update report was due to be submitted to Committee in December 2020.

With no further discussion, the matters arising schedule was **NOTED** .

The meeting concluded at 6.47 pm.

Chairman

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Regulatory Sub-Committee held in the Via MS Teams on 6 October 2020 commencing at 10.30 am.

Present:

Councillor David Cotton
Councillor Paul Howitt-Cowan
Councillor Mrs Angela Lawrence

In Attendance:

Kim Robertson	Principal Solicitor, Legal Services Lincolnshire
Andy Gray	Housing and Enforcement Manager
Tracy Gavins	Licensing Enforcement Officer
Katie Storr	Senior Democratic & Civic Officer

Apologies:

Membership:

1 CHAIRMAN'S WELCOME

Councillor Cotton welcomed all parties to the virtual hearing. Due to the nature of the business to be discussed all present were asked to confirm, and did so, that they were alone in their virtual meeting space.

Councillor Cotton advised from the outset that should there be any technical issues, as had been experienced earlier in the day, the meeting would need to be adjourned.

2 TO ELECT A CHAIRMAN FOR THIS MEETING ONLY.

RESOLVED that Councillor Cotton be elected Chairman of the Regulatory Sub-Committee for this meeting only.

Councillor Cotton took the Chair for the remainder of the meeting and round "the table" introductions were made.

3 MEMBERS DECLARATIONS OF INTEREST.

Councillor David Cotton declared a personal interest in that he was a serving Magistrate on the Lincoln Bench, adding that should this matter result in an appeal to the Magistrates' Court, Councillor Cotton would be de-barred from any involvement in any appeal, other than

to give evidence on behalf of the Authority.

There were no further declarations of interest.

4 PROCEDURE.

The Chairman advised that the Principles of Natural Justice were to be followed, as outlined in the Procedure circulated with the Hearing Papers. Confirmation was sought that the Applicant was aware that he could have been represented at the meeting.

The Applicant, in response, advised that he had not been made aware of this fact and was unsure whether he wanted or needed legal representation.

The Legal Adviser affirmed the Applicant had been made aware of his right to legal representation, however only the Applicant could determine whether if in fact he wanted or needed such representation. It was made clear to the Applicant that this was his choice and the Panel would be adjourned and the decision held in abeyance, should he now feel representation was more appropriate.

Following some deliberation, the Applicant advised the Chairman, that he did wish to have legal representation, however his Solicitor was not available today.

On that basis, the Chairman advised that the Meeting would be adjourned, pending “avoid dates” being provided by the Applicant and his Solicitor.

It was also noted that a further substitute Member would be added to the Panel when re-convened and in the event that any Councillor experienced technical issues on the day of the Hearing their position could be appropriately substituted allowing the Hearing to proceed.

The meeting adjourned at 10.49 am and would be re-convened on a date to be confirmed.

The meeting concluded at 10.49 am.

Chairman

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Regulatory Sub-Committee held in the MS Teams on 17 November 2020 commencing at 10.30 am.

Present: Councillor David Cotton (Chairman)

Councillor Mrs Caralyne Grimble (reserve but present throughout the Hearing in case of technical issues)
Councillor Paul Howitt-Cowan
Councillor Mrs Angela Lawrence

In Attendance:

Tracy Gavins	Licensing Enforcement Officer
Katie Storr	Senior Democratic & Civic Officer
Kim Robertson	Principal Solicitor, Legal Services Lincolnshire
Andy Gray	Housing and Enforcement Manager

Apologies: None

Also in Attendance: The Applicant and the Applicant's Solicitor

5 OPENING OF MEETING AND CONFIRMATION OF THE CHAIRMAN .

Councillor Cotton welcomed everyone to the re-convened meeting, adjourned from 6 October. This being a re-convened it was **RE-AFFIRMED** that Councillor Cotton would be chairing the day's proceedings.

Before moving to formal introductions, it was noted the Applicant had not joined the meeting nor accepted the invitation.

Confirmation was sought from the Applicant's Solicitor whether he would be representing the Applicant in his absence. This was confirmed not to be the case and there was a short adjournment whilst the Applicant's Solicitor contacted his client.

Having being notified of the Applicant's intention to join, the Chairman indicated he would allow the Applicant until 10.45am.

The Applicant's Solicitor took the opportunity to seek confirmation as to whether all the matters referred to within the report were truly relevant to today's case given a licence had been granted in 2017.

The Council's Legal Adviser confirmed all matters, including those known to the Council in 2017, were relevant for the purposes of the granting of such a licence.

6 REGISTER OF ATTENDANCE

In the continued absence of the Applicant, formal round the table introductions were made.

7 MEMBERS DECLARATIONS OF INTEREST.

Councillor David Cotton declared a personal interest in the matter as a serving Magistrate. In the event that an appeal was lodged with the Magistrates' Court, Councillor Cotton would not be permitted, by the Court, to 'sit' on such appeal.

8 PROCEDURE.

The Chairman confirmed the Principles of Natural Justice were to be followed.

The Procedure to be followed was summarised by the Legal Advisor.

9 EXCLUSION OF PUBLIC AND PRESS.

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to an individual.

The Meeting Administrator advised that the Applicant was now actively trying to join the meeting but appeared to be having technical issues. Having taken several measures, further assistance would be required.

In response to the Chairman's indication that, whilst all efforts would be made to assist the Applicant, he intended to continue with proceedings at 11.00am, the Applicant's Solicitor raised an objection, citing a Council system failure as opposed to a failing on his client's part.

Proceedings were halted whilst technical support was sought and the Applicant was successfully joined to the meeting at 11.09 am. Both the round table introductions and the procedure to be followed were again repeated.

10 APPLICATION FOR THE GRANT OF A COMBINED HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE.

Members considered a report on the suitability of an applicant to be granted a combined hackney carriage/ private hire drivers licence. The Licensing Manager highlighted the relevant sections of the report with regards to the reason for calling the meeting and brought Members' attention to relevant appendices.

Members confirmed they had no questions in respect of the report.

The Applicant's Solicitor expressed his concern that evidence relating to some of the latter incidents was merely hearsay and had not been tested. He also suggested that these matters had been addressed by the Council previously and this fact should have been referenced within the report, which he considered to be bias and prejudicial in its presentation.

The Applicant's Solicitor was invited to address the Committee, presenting his case and calling the Applicant as a witness, and to offer detailed explanation regarding the allegations and circumstances.

In doing so the Sub-Committee heard how in the Applicant's Solicitor's view the majority of the information in the evidence pack was prejudicial, citing to Members what he considered to be the only relevant piece of information contained.

The Applicant's Solicitor was further of the view that the outcome of any investigation as opposed to the allegation itself was the most relevant factor. There was no dispute of the evidence found but the committee heard from the Applicant how such technology worked and as such the Applicant's Solicitor was of the view that any intent had not been proven, resulting in no further action being taken against his client, and nothing formal being placed on his record.

Regarding some of the older allegations, and allegations which the Council had been aware of when originally granting a licence in 2017, the Applicant's Solicitor submitted these were now so old that they should now not be of concern to the Committee. Any evidence relating to the more recent allegations, he repeated, was flawed in their presentation and were as a result of untested evidence. The Committee heard from the applicant his version of events which resulted in him leaving employment, and the fact that these allegations had not been put to him by a previous employer at the time. The Applicant also advised how it was he who had raised some of the issues with his employer and outlined to the Committee the circumstances. The Applicant also advised how the Licensing Department had spoken with to him in respect of the contents of the letter from his former employer and had not indicated that this would form a matter of his record of personal conduct.

Returning to the older allegations, the Applicant's Solicitor again submitted that these were now so old, they should not be considered, furthermore a previous Committee had not considered them enough to not a grant a licence. Again it was suggested that any evidence relating to new allegations was either flawed, bias or hearsay or had resulted in no proceedings against his client and as such his Client's position, had not fundamentally changed from when he was granted a licence with a caution around future conduct.

For the purpose of the Hearing, at the request of his Solicitor, the Applicant outlined the circumstances of his previous misconduct and the pressure he had felt to accept a caution.

In response to comments which had been made by the Applicant's Solicitor, the Council's Legal Adviser addressed the hearing, reminding the Panel that their role was not to judge whether these incidents happened beyond reasonable doubt, as expected by a Court of Law, but determine whether the applicant was a "fit and proper" person in line with the now regularly accepted test.

The Sub-Committee were permitted to accept hearsay evidence not being a court of law and

not having to satisfy the reasonable doubt standard, this was clear within the Council's Convictions Policy and Driver Licensing Policy

Furthermore the Committee were reminded of the advice given to licensing authorities from the Department of transport in particular paragraph 5.14 below;

5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

The guidance confirms that licensing authorities must take a more robust approach to safeguarding.

The Hearing also heard of a recent Crown Court Case at St Albans on 21st October 2020 in the Three Rivers District Council case where the court placed particular emphasis on the Department for Transport's statutory guidance for licensing authorities and the instruction that authorities should not give the benefit of the doubt to drivers when deciding on questions of fitness and propriety.

The Applicant's Solicitor disputed the parallels between the cases.

The Sub-Committee took the opportunity to question the Applicant on the verbal information he had provided throughout the course of proceedings, and sought his view on why such an allegation would be made; receiving appropriate responses.

The Chairman provided the Applicant and his Solicitor and the Council's Legal Adviser the opportunity to make any closing statements they had.

In summing up, the Applicant's Solicitor again repeated his previous comments around the prejudicial nature of the hearing paper, was of the view that innocent until proven guilty should always be applied in the principles of natural justice. He was of the view that nothing fundamental had changed since his client had been granted a licence in 2017. No formal proceedings had been taken against his Client and no marker placed on his record. The Applicant's Solicitor submitted that a condition could be applied and this was an option the Committee could consider.

Whilst no initial statement was made by the Council's Legal Adviser, having heard the summing up points she reminded the Sub-Committee that a Magistrate's Court had upheld the previous decisions taken by the Authority in respect of this Applicant.

The Chairman explained that the Sub-Committee (excluding the reserve Member), its Legal Adviser and Administrator would now retire to consider all the information and to reach their decision. The Applicant would be notified of the decision within 5 working days of the meeting.

Note: The formal hearing closed at 12.29

The Applicant was subsequently advised in writing that the Sub-Committee had

RESOLVED that having considered all of the representations and information before the Hearing and giving due weight to the evidence presented the Committee were unanimous in their decision that the licence be refused, for the reasons outlined to the Applicant in his decision notice.

The Applicant has a right to appeal which must be made within 21 days of being notified of this decision, under the provisions of sections 52 and 59 of the Local Government (Miscellaneous Provisions) Act 1976

The meeting concluded at 12.29 pm.

Chairman

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Regulatory Sub-Committee held in the Virtual - MS Teams on 25 February 2021 commencing at 10.30 am.

Present: Councillor Mrs Angela Lawrence
Councillor Mrs Jessie Milne
Councillor Mrs Judy Rainsforth

Councillor David Cotton was present as a reserve for the entirety of the hearing.

In Attendance:
Tracy Gavins Licensing Enforcement Officer
Andy Gray Housing and Enforcement Manager
Kim Robertson Principal Solicitor, Legal Services Lincolnshire
James Welbourn Democratic and Civic Officer

Both applicants were present for their individual hearings.

1 TO ELECT A CHAIRMAN FOR THIS MEETING ONLY.

RESOLVED that Councillor Milne be elected Chairman of the Regulatory Sub-Committee for this meeting only.

Councillor Milne took the Chair for the remainder of the meeting and round “the table” introductions were made.

2 APOLOGIES FOR ABSENCE.

There were no apologies for absence.

3 MEMBERS DECLARATIONS OF INTEREST.

Councillor Jessie Milne declared that she had, on one occasion used a taxi driven by the driver in the first case.

Councillor David Cotton declared that were either of these cases to go to appeal, he would not be able to sit on the appeal as a Justice of the Peace.

4 PROCEDURE.

The Chairman and the Legal Representative outlined the procedure for the hearing to those present.

Councillor David Cotton was present through the meeting as a reserve member.

5 EXCLUSION OF PUBLIC AND PRESS.

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to an individual.

6 'FIT AND PROPER' STATUS OF A LICENSED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER - 1ST CASE

Members considered a case involving the 'fit and proper' status of a licensed Hackney Carriage/Private Hire Driver.

The Applicant was subsequently advised in writing that the Sub-Committee had

RESOLVED that having considered all of the representations and information before the Hearing and giving due weight to the evidence presented the Committee were unanimous in their decision that the Applicant received a strict warning, as outlined to the Applicant in his decision notice. It was their view that they should continue to hold a Hackney Carriage/Private Hire Drivers' Licence.

The Applicant has a right to appeal which must be made within 21 days of being notified of this decision, under the provisions of sections 52 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.

7 'FIT AND PROPER' STATUS OF A LICENSED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER - 2ND CASE

Members considered a case involving the 'fit and proper' status of a licensed Hackney Carriage/Private Hire Driver.

The Applicant was subsequently advised in writing that the Sub-Committee had

RESOLVED that having considered all of the representations and information before the Hearing and giving due weight to the evidence presented the Committee were unanimous in their decision that the Applicant received a strict warning, as outlined to the Applicant in his decision notice. It was their view that they should continue to hold a Hackney Carriage/Private Hire Drivers' Licence.

The Applicant has a right to appeal which must be made within 21 days of being notified of this decision, under the provisions of sections 52 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.

The meeting concluded at 11.18 am.

Chairman

Regulatory Committee Matters Arising Schedule

Purpose:

To consider progress on the matters arising from previous Regulatory Committee meetings.

Recommendation: That members note progress on the matters arising and request corrective action if necessary.

Meeting	Licensing and Regulatory Committee
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Status	Title	Action Required	Comments	Due Date	Allocated To
Black	PSPO Monitoring Report	Housing and Enforcement Manager to bring back PSPO monitoring report in December to Regulatory Committee.	Regulatory Committee did not meet in December, therefore the Housing and Enforcement Manager has brought the update to March Committee.	10/12/20	Andy Gray

Agenda Item 6a



Regulatory Committee

Thursday 11th March 2021

Subject: Public Space Protection Orders - General Update

Report by:

Chief Executive

Contact Officer:

Andy Gray
Housing and Enforcement Manager

andy.gray@west-lindsey.gov.uk

Purpose / Summary:

To provide committee with an update on the work undertaken in relation to Public Space Protection Orders

RECOMMENDATION(S):

Regulatory Committee are asked to:

- a) Note the content of this report and the updates it provides.
- b) Approve that the findings in relation to the future PSPO proposals are brought back to Committee within 12 months for a decision to be made on whether or not to pursue them.

IMPLICATIONS

Legal:

PSPOs are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. A minimum 30 day consultation period is required by Legislation. The Council intends to consult for its minimum 6 week period.

The Council can vary, extend or discharge a PSPO in line with section 72 of the Anti-Social Behaviour, Crime and Policing Act 2014.

Breach of a PSPO may be dealt with by a fixed penalty notice or prosecution. Delegated powers are in place for service of fixed penalty notices.

Appeals against the making of a PSPO can be made in the High Court within 5 weeks of the PSPO being made, on the grounds that the process has not been followed, or that the council did not have the authority to make the Order or put certain restrictions in the Order.

Financial : FIN/143/21/SSc

There are no financial implications arising from this report.

Staffing :

The current PSPOs are managed within the existing staffing resource available. Any further PSPO proposals would consider whether any additional resource was required.

Equality and Diversity including Human Rights :

Nothing to note at this stage

Data Protection Implications :

Nothing to note at this stage

Climate Related Risks and Opportunities :

PSPOs, depending on the matters they address can have a positive impact on climate related risks.

Section 17 Crime and Disorder Considerations :

To make an order the local authority needs to be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- Have had, or are likely to have a detrimental effect on the quality of life of those in the locality
- Is, or is likely to be persistent or continuing in nature
- Is, or is likely to be unreasonable
- Justifies the restrictions imposed

Health Implications:

Within any PSPO there are generally health benefits to be gained in addressing the issues that are prevalent. For example, a PSPO seeking to address dog fouling presents a clear benefit in regards to reducing the risk presented by the presence of dog fouling. Likewise, a PSPO aimed at addressing issues that impact a broader community are likely to have a positive impact on matters such as mental health. These are not the primary aims of the PSPO, but should be seen as additional benefits.

Title and Location of any Background Papers used in the preparation of this report:

Information relating to all of the active PSPOs in place can be found here:

<https://www.west-lindsey.gov.uk/my-services/my-community/community-safety/public-space-protection-orders-pspos/>

Guidance on PSPOs can be found here :

https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf

Risk Assessment :

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

1 Introduction

- 1.1 The Council's Regulatory Committee are being provided with a general update in regards to Public Space Protection Orders that are in place across the District. This paper provides the general update and outlines the timeline for the review of PSPOs in place along with a schedule of work relating to further PSPOs.

2 Current PSPOs

- 2.1 There are currently 3 active PSPOs in place within the District. The details of these are as follows and the details of each can be found here: <https://www.west-lindsey.gov.uk/my-services/my-community/community-safety/public-space-protection-orders-pspos/>

PSPO	Expires	Requirements
District Wide Dog Fouling	June 2023	-removal and disposal of dog fouling -carry means to remove dog fouling
Gainsborough Cemeteries	October 2022	-dogs on leads -no motorised vehicles
Hemswell Cliff	June 2020	-no structures on green spaces -restrictions on parking and where vehicles can be -no animal grazing -no burning or bonfires

- 2.2 There has also been one PSPO that has been expired during the time period which is detailed below

PSPO	Expired	Requirements
Trinity Arts Centre	June 2020	-dogs on leads -no consumption of alcohol

- 2.3 The Regulatory Committee receive a detailed report as part of the process for approving, extending, varying or revoking any of the PSPOs. These reports provide information and evidence in relation to the specific decision that is being sought. The reports also provide an overview of the evidence relating to that particular PSPO.
- 2.4 The latest PSPO review is being presented to Regulatory Committee on the 11th of March in relation to Hemswell Cliff. During 2020 decisions were made in relation to the District Wide Dog Fouling and the Trinity Arts Centre PSPOs.

3 PSPO Process

- 3.1 The Council is obligated to consider any requests from other parties for PSPOs to be put in place and is also able to consider whether a PSPO is an appropriate tool for issues that are arising within its area.

- 3.2 Where requests for PSPOs are made, this is considered by an officer group and work undertaken to establish the evidence in relation to the issue and whether there are any existing tools that can be used to address it. For example, where the issue relates to individuals causing ASB, other appropriate powers are available to deal with this.
- 3.3 Where a PSPO is considered necessary, a report would be presented to the Regulatory Committee for consideration asking them to determine whether or not consultation should be undertaken on the matter.
- 3.4 If approved, the consultation then takes place and the outcomes of this are presented to the Regulatory Committee along with a recommendation in regards to the PSPO.
- 3.5 Once active, an update from time to time may be brought to the Regulatory Committee to inform them of whether it has had an impact in relation to the issue/s it seeks to address.

4 Future Proposals for PSPOs

- 4.1 There are currently no plans in place for any further PSPOs to be introduced within the District. Initial discussions have been undertaken in relation to the following issues, in order to establish whether a PSPO may be an appropriate tool in order to address them.

District Wide Dog Control PSPO: To place restrictions on certain spaces (i.e. town centres, retail areas, playing fields and parks) to ensure that dogs are kept on leads. This would consider land owned by Town and Parish Councils.

Household Waste PSPO: To provide a more effective tool for managing early presentation of waste in bagged collection areas of Gainsborough.

Town Centre based PSPO: To place restrictions on issues such as street drinking

5 Recommendations

Regulatory Committee are asked to:

- c) Note the content of this report and the updates it provides.
- d) Approve that the findings in relation to the future PSPO proposals are brought back to Committee within 12 months for a decision to be made on whether or not to pursue them.



Regulatory Committee

11th March 2021

Subject: Hemswell Cliff Public Space Protection Order

Report by:

Contact Officer:

Andy Gray
Housing and Enforcement Manager

andy.gray@west-lindsey.gov.uk

Purpose / Summary:

To provide an update on the Hemswell Cliff Public Space Protection Order (PSPO) and seek approval to consult upon its extension.

RECOMMENDATION(S):

Committee are asked to:

- a) Approve the proposal to consult upon the extension of the Hemswell Cliff Public Space Protection Order

IMPLICATIONS

Legal:

PSPOs are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. A minimum 30 day consultation period is required by Legislation. The Council intends to consult for its minimum 6 week period.

The Council can vary, extend or discharge a PSPO in line with section 72 of the Anti-Social Behaviour, Crime and Policing Act 2014.

Breach of a PSPO may be dealt with by a fixed penalty notice or prosecution. Delegated powers are in place for service of fixed penalty notices.

Appeals against the making of a PSPO can be made in the High Court within 5 weeks of the PSPO being made, on the grounds that the process has not been followed, or that the council did not have the authority to make the Order or put certain restrictions in the Order.

Financial : FIN/137/21/SL

There is a cost associated with the consultation exercise (primarily staff time) and any publicity that is required. These will be met from existing service budgets.

Fixed penalty notices (FPN's) for breach of a PSPO are set at £100 with a £75 early payment incentive within fees and charges. Income from fixed penalty notices may be used to support the service issuing the FPN.

Staffing :

Staff time will be required to support the consultation process, however most of the responses are provided online.

The Council already has provision in place to monitor and enforce the PSPOs in place and it is not proposed that any subsequent approval will affect this as it is an extension of an existing order.

Equality and Diversity including Human Rights :

The proposed extension of this PSPO will not disadvantage any social groups over another, and the process will be applied fairly. The Councils approach to fixed penalties is outlined in its Corporate Enforcement Policy.

Data Protection Implications :

Not applicable.

Climate Related Risks and Opportunities:

Not applicable

Section 17 Crime and Disorder Considerations:

To make an order the local authority needs to be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- Have had, or are likely to have a detrimental effect on the quality of life of those in the locality
- Is, or is likely to be persistent or continuing in nature
- Is, or is likely to be unreasonable
- Justifies the restrictions imposed

The report sets out the rationale for the above in relation to Hemswell Cliff.

Health Implications:

Whilst there are no direct health implications referred to within this report, the PSPO is aimed at improving the quality of life within the designated area for its residents.

Title and Location of any Background Papers used in the preparation of this report :

Regulatory Committee, 15th March 2018 item 6b. Report on Hemswell Cliff PSPO – recommendation on making an order

<https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CIId=262&MIId=1970&Ver=4>

Risk Assessment :

Challenge in the High Court – the risk of this is reduced by following process and considering reasonableness throughout process

Consultation – in carrying out the consultation it may be that the Council has to amend its recommendation due to the responses received. The proposals for the PSPO would then be reviewed on that basis.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

1 Introduction

- 1.1 On the 4th June 2018, the Hemswell Cliff Public Space Protection Order came into effect, following on from its approval by the Council's Regulatory Committee. The PSPO is due to expire on 3rd June 2021, therefore this paper sets out the process that the Council intends to undertake to review it and determine its future.
- 1.2 The impact of the issues experienced at Hemswell Cliff have been well documented and it is still an area of the District within which the Council commits considerable resource to manage. Alongside this the Council has also invested in areas such as CCTV to assist with the overall management of the designated area.
- 1.3 This report proposes that the existing PSPO is extended for an additional three years and seek approval for consultation with the community to be undertaken to inform this.

2 Legal Position

- 2.1 PSPOs are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. Orders can be extended and varied under sections 60 and 61 of the Act.
- 2.2 These Orders can be made on any land open to the air that the public has a right or entitlement of access to
- 2.3 To make an Order, the local authority needs to be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:
 - Have had, or are likely to have a detrimental effect on the quality of life of those in the locality
 - Is, or is likely to be persistent or continuing in nature
 - Is, or is likely to be unreasonable
 - Justifies the restrictions imposed

3 Context

- 3.1 Hemswell Cliff is made up of mainly ex Ministry of Defence properties and the majority of land within the residential area is privately owned by a management company who are also responsible for various parts of the highway and infrastructure.
- 3.2 The area has experienced a particular issue with Anti-Social Behaviour since around 2016 and there are a number of factors that have contributed to this, namely; a relatively transient group of people who occupy private rented sector properties; poorly managed private rented sector properties; poor management of shared land and highways; a

high proportion of vulnerable persons or persons who require agency intervention.

3.3 Since its initial approval, the Council has installed (with partners) additional CCTV within the area and the Police now have a more permanent resource for the area.

3.4 The PSPO seeks to prohibit the following activities:

- No domestic or farm animals may be grazed or kept on the land, whether under tether or within a cage, or freely roaming
- Burning and bonfires are banned unless arranged by or with the written permission of the local authority
- Structures and equipment, including tents, trampolines, marquees and playground equipment, whether permanent or temporary, may not be placed on the land unless with the written permission of the local authority
- No vehicle may be parked on the designated land; for the purposes of the order 'vehicle' includes any motor propelled vehicle including off road bikes and quad bikes or anything designed to be trailed by a motor propelled vehicle e.g. a trailer, horsebox or caravan. This does not apply to emergency vehicles responding to an emergency call, or vehicles used in or for an event arranged or agreed in writing by the local authority
- No vehicle may be driven on the designated land; for the purposes of the order 'vehicle' includes any motor propelled vehicle including off road bikes and quad bikes or anything designed to be trailed by a motor propelled vehicle e.g. a trailer, horsebox or caravan. This does not apply to emergency vehicles responding to an emergency call, or vehicles used in or for an event arranged or agreed in writing by the local authority

4 Current Position

4.1 The current PSPO has been in place since 2018 and there have not been any fixed penalty notices issued in relation to breaches to date.

4.2 During this period there has been the following level of reporting against its restrictions:

Type	Volume
cars/vehicles parked on green space	11
Warnings attached to vehicles regarding parking on green	14
Structures left on green space (paddling pool and trampoline)	4
Animal grazing/loose animals	3
Bonfires	3
Incidents of unauthorised encampments	2

4.3 Alongside the PSPO the following reports have been made in relation to Hemswell Cliff

Type	Volume
General ASB	5
Intimidation Harassment	3
Noise nuisance	17
Fly-tipping (evidence)	2
Fly-tipping (no evidence)	23
Abandoned Vehicle reports	6

4.4 Officers have carried out proactive patrols of the designated area, generally on two occasions per week. This is interspersed with visits relating to any of the specific reports above. Other officers who do not enforce the PSPO are also aware of its requirements and report any issues for follow up to the enforcing officers.

4.5 The PSPO has presented a technical challenge in relation to parking on a green space. After its introduction, a change in regulations meant that the usual route for identifying a vehicle owner for this type of offence was prohibited. As a result, it is very difficult to issue a fixed penalty for this unless an individual is caught in the act by an officer.

4.6 During the period of time that the PSPO has been in place the following reports have been made to the Police in relation to the area:

Period	Volume of Reports to Police
1/1/18 to 31/5/18	81
1/6/18 to 31/12/18	24
1/1/19 to 31/5/19	3
1/6/19 to 31/12/19	4
1/1/20 to 31/5/20	21
1/6/20 to 26/1/21	11

4.7 There has been a significant decrease in the number of reports made to the Police since the PSPO came into effect. Whilst the PSPO alone cannot be solely responsible for this, it is clear that along with the other measures put in place it has had a positive impact.

4.8 Whilst it cannot be verified, it is likely that the increase during 2020 and into 2021 is linked to the Covid-19 pandemic.

5 Other Considerations

5.1 At its inception, the PSPO was aimed at addressing certain issues and to make clear to the residents within the area that there were restrictions in place for some of the activities that had been occurring previously. The Hemswell Residents Company (HRS), at that period in time, was

also less active than it is now in terms of its ability to respond to some of these issues.

- 5.2 The HRC has addresses issues across the designated area and will continue to do so. For example, they are taking steps to put in place a more permanent solution to address parking on grass as well as taking forward work to address the legal covenants in place for property owners. These legal covenants will address matters which the PSPO cannot, such as the repair of garages or the parking of caravans and larger vehicles such as this.
- 5.3 The installation of CCTV has been seen as a positive step for the community, however there is some conflict in relation to use of the CCTV to address PSPO matters. The targeted use of CCTV is not appropriate for fixed penalty offences of this nature, much in the same way as it would not be appropriate to use it for matters such as dog fouling. The CCTV is primarily in place to detect crime and ASB that would not be remedied using the PSPO.

6 Proposed Extension

- 6.1 Given the above information and on the basis that the PSPO has acted as an effective tool for managing some of the broader issues in relation to Hemswell Cliff it is proposed that the PSPO be extended for an additional three years.
- 6.2 The Authority is not required to consult on this matter, however it is deemed that consultation on the extension would be helpful in regards to establishing the level of support in relation to this. It will also help the Council to understand whether any improvements can be made to the PSPO.

7 Consultation

- 7.1 The legislation requires that a minimum 30 days consultation is carried out where appropriate. It is proposed, in line with the Council's standard to consult on this matter for 6 weeks, a period greater than the requirement.
- 7.2 Should approval be given to consult, the following timeline will apply:

Date	Action
11 March 2021	Agreement to be sought from Regulatory Committee
18 March 2021	Commence consultation
29 April 2021	Consultation closes
10 May 2021	Final proposal to Management Team
10 June 2021	Final proposal to Regulatory Committee
June 2021(tba)	PSPO to be extended (subject to approval)

- 7.3 Public notices will be produced for the extension of the order. These will be displayed in the Council Offices and its website and made available on request. The public notice will also be advertised in the local press.
- 7.4 A draft of the proposed order and a list of frequently asked questions will be made available online during the consultation period. The FAQs are shown in appendix 2.
- 7.5 There are a wide range of statutory consultees, including Parish Councils that will be advised of the consultation. Alongside this, information will be sent to organisations that have a specific interest in dogs to ensure that their views are represented.
- 7.6 The consultation forms themselves will be online and paper copies will be made available as required.
- 7.7 A copy of the FAQs for the consultation and the final order are shown in appendix 1 and 2.

8 **Recommendations**

8.1 Committee are asked to :

- a) Approve the proposal to consult upon the extension of the Hemswell Cliff Public Space Protection Order

WEST LINDSEY DISTRICT COUNCIL

Anti-Social Behaviour, Crime and Policing Act 2014, section 59 Public Space Protection Order

This order may be cited as the West Lindsey District Council – Hemswell Cliff Public Space Protection Order 2021.

This

West Lindsey District Council (“the Council”), being satisfied that the conditions set out in Section 59(2) of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) have been met in relation to this order in that the activities set out below have occurred in the vicinity and have had a detrimental effect on the quality of life of those in the locality, and it is likely that those activities will be carried out in the area and have such an effect in future without the order. The Council is also satisfied that the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, and these activities are unreasonable and justify the restrictions imposed by the notice, and that it is in all circumstances expedient to make this order for the purpose of reducing crime and/or anti-social behaviour in a public place.

The Council in exercise of its powers under Sections 59, 64 and 72 of the Act and under all other enabling powers, hereby makes the following order:

- That within the area shown in the attached map, all land to which the public has a right or entitlement of access will have the following prohibitions attached:
 1. No domestic or farm animals may be grazed or kept on the land, whether under tether or within a cage, or freely roaming
 2. Burning and bonfires are banned unless arranged by or with the written permission of the local authority
 3. Structures and equipment, including tents, trampolines, marquees and playground equipment, whether permanent or temporary, may not be placed on the land unless with the written permission of the local authority

- That within the area shown in the attached map, all land to which the public has a right or entitlement of access with the exception of roads and car parks will have the following prohibitions attached:
 1. No vehicle may be parked on the designated land; for the purposes of the order ‘vehicle’ includes any motor propelled vehicle including off road bikes and quad bikes or anything designed to be trailed by a motor propelled vehicle e.g. a trailer, horsebox or caravan. This does not apply to emergency vehicles responding to an emergency call, or vehicles used in or for an event arranged or agreed in writing by the local authority
 2. No vehicle may be driven on the designated land; for the purposes of the order ‘vehicle’ includes any motor propelled vehicle including off road bikes and quad bikes or anything designed to be trailed by a motor propelled vehicle e.g. a trailer, horsebox or caravan. This does not apply to emergency vehicles responding to an emergency call, or vehicles used in or for an event arranged or agreed in writing by the local authority

- Exemptions are listed at Schedule 1
- A map of the area is contained at Schedule 3

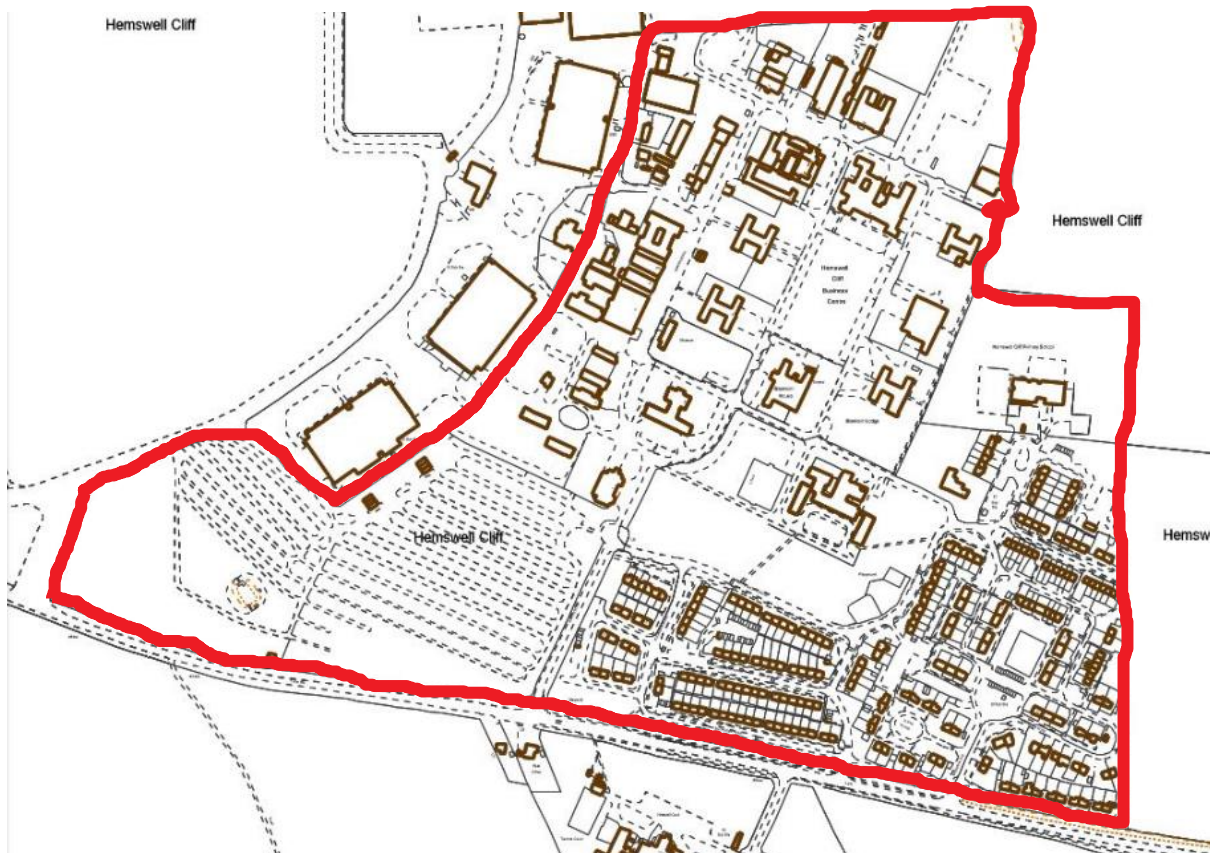
Schedule 1

1. There are no exemptions to this order further to those contained in the wording of the order.
2. The order will not apply to private land that the public have no right of access to, including gardens

Schedule 2

1. It is an offence for a person without reasonable excuse to fail to comply with this order.
2. A person found to be in breach of this order is liable on summary conviction to a maximum penalty of a level 3 fine or to a fixed penalty notice of up to £100.
3. Fixed penalty notices may be issued by an authorised officer. An authorised officer will be an officer of the District council, or any other suitably trained person, to whom the council has delegated powers under this legislation to issue fixed penalty notices. Warranted police officers and PCSOs in Lincolnshire are also authorised officers under this legislation.

Schedule 3 – area to be covered by the PSPO



The Order shall come in to operation on 11th June 2021 and shall have effect for a period of 3 years thereafter, unless extended by further orders under the Councils statutory powers.

If any interested person requests to question the validity of this order on the grounds that the Council did not have the power to make the order or that a requirement under the Act has not been complied with, then he or she may apply to the High Court within six weeks from the date in which the order is made.

GIVEN under the Common Seal of West Lindsey District Council on the
XX Day of June 2021

The Common Seal of
West Lindsey District Council
was hereunto affixed
in the presence of

Authorised Officer

Appendix 2

Consultation on Extension of Hemswell Cliff Public Space Protection Order

Frequently Asked Questions

What is a PSPO?

Public Space Protection Orders (PSPOs) relate to activities taking place which are or may be detrimental to the local community's quality of life. The PSPO for dog fouling and dog control is aimed at preventing and reducing this anti-social behaviour and to help promote responsible dog ownership

What does the PSPO involve?

The order prohibits the following activities on the land that it applies to:

- The grazing of domestic or farm animals
- Burning and bonfires
- The placing of structures or equipment including tents, marquees and playground equipment
- The parking of vehicles on certain parts of the land
- The driving of vehicles on certain parts of the land

How will the PSPO be enforced?

Any individual observed by an authorised officer breaching the PSPO will be issued with a fixed penalty notice of £100. Regular patrols of the designated area will be undertaken by enforcement officers. Residents will be able to report issues relating to the PSPO to the Council, who will then consider them.

How will the enforcement work in practice?

Any officer enforcing the PSPO will take a common sense approach and base this on the risk to the public. For example, we may choose to approach persons and ask them to address the issue instead of issuing a fixed penalty notice.

Is there signage notifying that the PSPO is in place?

Yes, there is clear signage within the designated area and this can be increased or replace as required.

Can you use CCTV to enforce the PSPO?

Generally not. The Council will not use the CCTV to carry out surveillance for PSPO related issues, this is not deemed a proportionate use of the CCTV facility. Should the CCTV present a PSPO related issue, this will be considered by officers and a decision on its progression made in line with the Council's enforcement policy.

Which areas of land does the PSPO cover?

The map below sets out the designated area. The PSPO does not extend across the A631



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Regulatory Workplan as at 3 March

Purpose:

This report provides an overview of reports due at committee over the next year.

Recommendation:

1. That members note the workplan.

Date	Title	Lead Officer	Purpose of the report	Date First Published
10 JUNE 2021				
10 Jun 2021	Fly Posting – Regulatory Powers	Andy Gray, Housing and Enforcement manager	TBC	28 January 2021
10 Jun 2021	Food and Health and Safety Workplan	Andy Gray, Housing and Enforcement manager	TBC	16 December 2020